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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,171	02/26/2004	Robert Frost	029082.53185US	9141

23911 7590 03/16/2009
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER

JOYNER, KEVIN

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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03/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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3/16/09

In re application of :
Frost : DECISION ON
Serial No. 10/786,171 : PETITION
Filed: February 26, 2004 :
For: Process For Operating A Packaging Transport System :

This is a decision on the request filed on September 3, 2008. The request is to have the Notice of Non-Compliant Amendment mailed December 05, 2007 be remailed and the time period for response be restarted.

In August 27, 2008, a Decision was issued in response to the Applicants' July 11, 2008 Petition to reset the period for response due to non-receipt of a Notice on Non-Compliant Amendment. The petition was dismissed because the Petition failed to state that:

- (i) the Notice of Non-Compliant Amendment mailed December 7, 2007 was not received;
- (ii) a search of the file and docket records was made, and
- (iii) the search revealed that the Notice of Non-Compliant Amendment was not received.

In response, Applicants note that the Petitioner did state that the notice was not received. The Applicants have submitted a revised Declaration that explicitly states that a physical search of the file was made, that a search of the docket records was made and the search revealed that the December 5, 2007 Notice of Non-Compliant Amendment was not received.

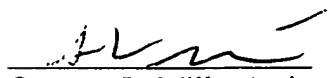
DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114).

A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the notice mailed on December 7, 2007.

The Petition is **GRANTED**.

A new Notice of Non-Compliant Amendment will be mailed and the period for response restarted.


Gregory L. Mills, Acting Director
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